

ESTTA Tracking number: **ESTTA575674**

Filing date: **12/10/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Suterra LLC
Granted to Date of previous extension	12/11/2013
Address	11444 W. Olympic Blvd. Los Angeles, CA 90064 UNITED STATES

Attorney information	Danielle M. Criona Roll Law Group P.C. 11444 W. Olympic Blvd. Los Angeles, CA 90064 UNITED STATES dcriona@roll.com, mrivera@roll.com
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Applicant Information

Application No	85722318	Publication date	08/13/2013
Opposition Filing Date	12/10/2013	Opposition Period Ends	12/11/2013
Applicant	Salt Puffer 1526 E Hampton Circle Mesa, AZ 85204 AZERBAIJAN		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Inhalers filled with Himalayan salt crystals, for use in personal health and wellness

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2348914	Application Date	01/31/1997
Registration Date	05/09/2000	Foreign Priority Date	NONE
Word Mark	PUFFER		

Design Mark	PUFFER
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 insecticides for human and agricultural uses

Attachments	75234642#TMSN.gif(bytes) Notice of Opposition.pdf(152774 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Danielle M. Criona /s/
Name	Danielle M. Criona
Date	12/10/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

SUTERRA LLC,)	Opposition No. _____
)	
Opposer,)	In the Matter of Application
)	Serial No. 85/722,318:
v.)	HIMALAYAS SALT PUFFER & Design
)	
SALT PUFFER, LLC,)	Published in the <i>Official Gazette</i> of
)	August 13, 2013
Applicant.)	
)	
)	
_____)	

NOTICE OF OPPOSITION

Suterra LLC (“Opposer”), a Delaware limited liability company located and doing business at 11444 W. Olympic Blvd., 10th Floor, Los Angeles, CA 90064, believes it will be damaged by the registration of the trademark HIMALAYAS SALT PUFFER in International Class 5 for “inhalers filled with Himalayan salt crystals, for use in personal health and wellness” in Application Serial No. 85/722,318 (the “SALT PUFFER Application” or the “Applicant’s SALT PUFFER Mark”), filed by Salt Puffer LIMITED LIABILITY COMPANY ARIZONA 1526 E Hampton Circle Mesa ARIZONA 85204 (“Applicant”), and hereby opposes the same.

As grounds for this opposition, Opposer alleges:

1. Opposer is one of the largest biorational pest control providers in the world and is dedicated to researching, developing, and commercializing environmentally sound products using naturally occurring compounds and biochemicals such as pheromones.

2. Since long prior to the July 27, 2012 filing date of Applicant’s SALT PUFFER Application, Opposer has owned a trademark registration for, and extensively marketed, pest

control goods in interstate commerce under or in connection with its distinctive PUFFER Mark (“PUFFER Mark”).

3. Opposer has been using the PUFFER Mark in interstate commerce since September 30, 1998.

4. On January 31, 1997, Opposer filed a trademark registration for the PUFFER Mark.

5. Opposer has owned a valid, subsisting trademark registration for the PUFFER Mark, Registration Number 2,348,914, since it was issued on May 9, 2000 for use with “insecticides for human and agricultural uses.”

6. Opposer’s Registration No. 2348914 for the PUFFER Mark is incontestable pursuant to 15 U.S.C. § 1115(b).

7. In addition to its U.S. registration, Opposer also owns registrations and applications for its PUFFER Mark in several countries around the world, including, but not limited to, Austria, Greece, Portugal, Spain, France, Germany, Italy, and Australia.

8. Opposer has sold hundreds of thousands of dollars worth of goods in connection with its PUFFER Mark.

9. Opposer has spent significant sums of money advertising and promoting its products in connection with the PUFFER Mark throughout the United States.

10. By virtue of the popularity of Opposer’s goods offered in connection with the PUFFER Mark, and its advertising and promotion of the PUFFER Mark, Opposer has built and owns extremely valuable goodwill which is symbolized by and associated with its PUFFER Mark.

11. Applicant’s use of the SALT PUFFER Mark for “inhalers filled with Himalayan

salt crystals, for use in personal health and wellness” in International Class 5 (“Applicant’s Goods”) is without Opposer’s consent or permission.

12. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of SALT PUFFER Mark in the United States prior to the September 6, 2012 filing date of the intent-to-use SALT PUFFER Application.

13. Applicant’s use of SALT PUFFER for Applicant’s Goods is likely to cause confusion, mistake, or deception in that consumers are likely to believe Applicant’s Goods are Opposer’s products or the products of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 85/722,318 be denied registration.

Please debit our Deposit Account No. 502934 for the \$300.00 filing fee and for any additional necessary fees.

Please address all correspondence to the undersigned attorneys.

Respectfully Submitted,

SUTERRA LLC

Date: December 10, 2013

By: /s/ Danielle M. Criona /s/
Danielle M. Criona, Esq.
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11444 West Olympic Blvd., 10th Floor
Los Angeles, California 90064
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CERTIFICATE OF SERVICE

I, Mark Rivera, hereby certify that a copy of this **NOTICE OF OPPOSITION** has been served upon:

Brandt D. Madsen
Schmeiser, Olsen & Watts LLP
18 E. University Drive, Suite 101
Mesa, AZ 85201

Lily A Neff
Salt Puffer LLC
15826 E. Hampton Circle
Mesa, AZ 85204

by first class mail, postage prepaid, on December 10, 2013.

By: /s/ Mark Rivera /s/
Mark Rivera
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